

IN HONOR OF "COVER THE  
UNINSURED WEEK"

SPEECH OF

**HON. JUANITA MILLENDER-McDONALD**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 13, 2003*

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise this evening to offer my comments on an important issue: Access to affordable healthcare for all Americans.

This week has been designated as "Cover the Uninsured Week." Three health foundations, the Robert Wood Johnson Foundation, The California Endowment, and the W.K. Kellogg Foundation sponsor "Cover the Uninsured Week." A large number of national organizations have worked for the past three years to educate the public and national leaders about the uninsured. These organizations include: the U.S. Chamber of Commerce, AFL-CIO Service Employees International Union, and Blue Cross and Blue Shield Association. I would like to submit a full list of these organizations for the RECORD.

Over 41 million Americans do not have health insurance. For a Nation that considers itself a superpower, and a beacon of democracy for the rest of the world, there is no reason for almost eight out of every ten Americans who are working families to be without healthcare coverage.

In my home State of California, 6.2 million State residents were uninsured for all or part of 2001 and Californians accounted for 16 percent of the Nation's uninsured.

According to the Kaiser Family Foundation, between 2000 and 2001, the number of the uninsured increased by 1.4 million, and low income Americans (those who earn less than 200 percent of the Federal poverty level) run the highest risk of being uninsured.

For this reason, I introduced H.R. 1143, legislation that would amend Title XIX of the Social Security Act (SSA) to permit States to expand Medicaid eligibility to uninsured poor adults.

The eligibility is expanded through the creation of a new optional Medicaid eligibility group for individuals between the ages of 21 and 65 whose family income does not exceed a State-specified percentage of up to 200 percent of the applicable poverty line.

In this time of economic uncertainty, it is imperative that we, as legislators, ensure the health of all Americans. The ability to seek healthcare due to an illness or an injury should not, and cannot be dependent on where one fits on a relative scale of income.

Instead, the working poor should be confident that unfortunate incidents would not affect their ability to provide for their families while medical bills pile up.

Swift passage of my legislation will restore many Americans' faith in our fiscal policies designed to protect the health and welfare of citizens left vulnerable by the lack of Federal health care assistance available to them.

Mr. Chairman, there is indeed a health care crisis in the Nation, and while there is no simple solution, I urge all of my colleagues to take a moment to reflect on the state of the uninsured in this Nation, and support my legislation.

LIST OF ORGANIZATIONS PARTICIPATING IN  
COVER THE UNINSURED WEEK

U.S. Chamber of Commerce, AFL-CIO, The Business Roundtable, Service Employees International Union, Healthcare Leadership Council, AFSCME, American Medical Association, American Nurses Association, Health Insurance Association of America, Families USA, Blue Cross and Blue Shield Association, American Hospital Association, Federation of American Hospitals, Catholic Health Association of the United States, AARP and United Way of America.

BANKRUPTCY ABUSE PREVENTION  
AND CONSUMER PROTECTION  
ACT OF 2003

SPEECH OF

**HON. LUIS V. GUTIERREZ**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 19, 2003*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes:

Mr. GUTIERREZ. Mr. Chairman, I am pleased that yesterday, during consideration of H.R. 975, the House agreed to an amendment I offered to Section 1234. As amended, Section 1234 will assure that all companies forced into involuntary bankruptcy receive the protection of the bona fide dispute standard in the manner that Congress has intended since its adoption in 1984.

Mr. Chairman, I would like to explain that my amendment changed the effective date in the involuntary bankruptcy provision of H.R. 975 also known as Section 1234. My amendment is identical to language that was included in the corresponding provision, Section 1233 of H.R. 5745, the bankruptcy reform bill passed by the House on November 15, 2002.

My amendment was a purely technical correction. Section 1234 is not new law but a clarifying restatement of Section 303 of the Bankruptcy Code, which sets the rules for involuntary cases since 1984. The purpose of the 1984 language was to bar bringing involuntary bankruptcy action in cases which were already subject of a "bona fide dispute" on either the existence of liability or the amount of that liability.

The purpose of the bona fide dispute standard is to prevent our overcrowded bankruptcy courts from being burdened with ordinary contract performance disputes filed as involuntary cases by forum-shopping litigants, seeking to gain undue leverage by forcing their counterparty into bankruptcy.

Ordinary contract disputes are contested on a level playing field when they are litigated in the proper forum of a civil court. And if they civil court issues a binding judgment regarding the amount that truly is due, a bona fide dispute no longer exists and an involuntary case may be initiated. But when trade creditors—especially separate affiliates of the same corporation—decline to bring a civil suit, and instead collude to force a debtor company into bankruptcy to gain an unfair advantage regarding bona fide contract disputes over contested amounts claimed to be due, it can be devastating. That devastation is particularly acute for a small business.

As soon as news of the bankruptcy gets out its employees may begin to explore other job opportunities, its suppliers start to demand cash on delivery rather than continue to abide by their standard credit and repayment terms, and its customers start to wonder if they can rely on that business into the future. The company pushed into involuntary bankruptcy is therefore put under tremendous pressure to settle the disputed matter on plaintiffs' terms, quickly, regardless of the merits."

There has been no confusion regarding the interpretation of the bona fide dispute standard at the appellate level, as all five federal appeals courts that have ruled on its scope have agreed that it covers both the questions of whether liability exists and the amount of that liability.

All that Section 1234 does is insert the term "as to liability or amount" into the Code so as to prevent any further misunderstanding on this matter by a small minority of bankruptcy judges. My amendment makes sure that Section 1234 apply with respect to all involuntary bankruptcy cases, regardless of whether or not the liability or the amount which is the object of the dispute.